



1 action: (1) Count One - violation of 42 U.S.C. § 1983 and deprivation of her rights under  
2 the Fourth and Fourteenth Amendments; (2) Count Two - negligent supervision and/or  
3 training; (3) Count Three - negligent hiring; (4) Count Four - assault; (5) Count Five -  
4 battery; (6) Count Six - false arrest and false imprisonment; (7) Count Seven - negligence  
5 and gross negligence; (8) Count Eight - abuse of process/malicious prosecution; and (9)  
6 Count Nine - deprivation of State constitutional rights. (Doc. 1) Counts Two and Three  
7 specifically allege Maricopa County as a defendant. (Doc. 1 at 6-7) Although Counts 1  
8 and 4-9 do not specifically allege Maricopa County as a Defendant, paragraph 16 of the  
9 Complaint broadly alleges that “Maricopa County [is] responsible for the actions of [its]  
10 individual deputies and employees under the doctrine of *respondeat superior*.” (Doc. 1, ¶  
11 16)

12 In its Separate Motion for Summary Judgment, Defendant Maricopa County  
13 asserts that is entitled to summary judgment on

14 the issues of their (sic) liability for the acts and omissions of Maricopa  
15 County Sheriff’s Deputies: their (sic) liability under 42 U.S.C. § 1983 under  
16 a *Monell* theory of liability or under principles of *respondeat superior*  
liability on the state law claims.

17 (Doc. 68 at 1) The analysis section of Defendant Maricopa County’s motion, part III, is  
18 divided into subparts A and B. Part A is entitled “No *Respondeat Superior* Under §  
19 1983.” (Doc. 68 at 5) Although Subpart A does not specifically indicate that it is  
20 directed to Plaintiff’s claims raised in Count One, because Count One is the only Count  
21 asserting claims under § 1983, the Court can logically conclude that Defendant Maricopa  
22 County is moving for summary judgment as to Plaintiff’s § 1983 allegations in Count  
23 One and will address that argument below.

24 Subpart B is entitled “County not Liable for the Conduct of the Sheriff or the  
25 Sheriff’s Office.” (Doc. 68 at 6) Again, Defendant Maricopa County does not identify  
26 to which Counts the arguments in subpart B are directed. The arguments in subpart B  
27 may be directed to Counts 2 and 3, which allege state law claims of negligent supervision  
28 and training, and negligent hiring, respectively, and name Maricopa County, Sheriff

1 Arpaio, and the Maricopa County Sheriff's Office as defendants. (Doc. 1 at 6-7)  
2 However, because Maricopa County also generally asserts that it is not liable "on the state  
3 law claims" under a theory of *respondeat superior*, Defendant Maricopa County may  
4 have intended that its arguments in subpart B relate to all of the state law claims (Counts  
5 2-9). It is simply not clear to which Counts in the Complaint Part B of Maricopa  
6 County's motion for summary judgment is directed. Apparently, it was not clear to the  
7 parties' either, because Defendant Maricopa County's motion for summary judgment  
8 discusses whether Maricopa County can be held liable for the conduct of the Sheriff and  
9 the Sheriff's Office, doc. 68 at 6-7, but Plaintiff's response discusses whether Maricopa  
10 County can be held liable for the conduct of the "police officers." (Doc. 77 at 8)

11 Defendant Maricopa County's Motion for Summary Judgment is poorly  
12 drafted and, with the exception of the arguments pertaining to Count One, does not  
13 clearly identify to which Counts in the Complaint the motion is directed. Defendant  
14 Maricopa County and Plaintiff do not appear to discuss the same issues in their briefing.  
15 Defendant discusses its liability for the actions of the Sheriff and the Sheriffs Office, the  
16 Plaintiff refers to the actions of the Sheriffs deputies. Additionally, Defendant Maricopa  
17 County argues that it is immune from punitive damages by statute, A.R.S. § 12-840.04,  
18 but the Response and the Reply include arguments pertaining to other defendants who are  
19 not parties to Defendant Maricopa County's Motion for Summary Judgment. The Court  
20 declines to decipher Defendant's motion for summary judgment and will not speculate as  
21 to what Counts Defendant Maricopa County directs its arguments in subpart B.

22 For the foregoing reasons, the Court will only address Maricopa County's  
23 arguments directed to Count One of the Complaint.

## 24 **II. Summary Judgment Standard**

25 A moving party may, at any time, move for summary judgment on all or any  
26 part of a claim. Fed.R.Civ.P. 56. The Court may only grant summary judgment if the  
27 pleadings and supporting documents, viewed in the light most favorable to the nonmoving  
28 party, determines that "there is no genuine issue of material fact and that the moving party

1 is entitled to judgment as a matter of law.” Fed.R.Civ.P. 56(c); *Celotex Corp. v. Catrett*,  
2 477 U.S. 317, 322-23 (1986). Substantive law determines which facts are material.  
3 *Anderson v. Liberty Lobby, Inc.*, 447 U.S. 242, 248 (1986). “Only disputes over facts  
4 that might affect the outcome of the suit under the governing law will properly preclude  
5 the entry of summary judgment.” *Anderson*, 477 U.S. at 248. In considering the  
6 evidence, the Court is not to weigh the evidence and determine the truth of the matter, but  
7 to determine whether there is a genuine issue for trial. *Anderson*, 477 U.S. at 249. The  
8 moving party need not disprove matters on which the opponent has the burden of proof at  
9 trial. *Celotex*, 477 U.S. at 323.

10           The party opposing summary judgment “may not rest upon the mere  
11 allegations or denials of [the party’s] pleadings, but . . . must set forth specific facts  
12 showing that there is a genuine issue for trial.” Fed. R. Civ. P. 56(e); *Matsushita Elec.*  
13 *Industries Co., Ltd. v. Zenith Radio Corp.*, 475 U.S. 574, 685-87 (1986). There is no  
14 genuine issue for trial unless there is sufficient evidence favoring the nonmoving party. If  
15 the evidence is merely colorable or is not significantly probative, summary judgment may  
16 be granted. *Anderson*, 477 U.S. at 249-50. However, “[t]he evidence of the non-movant  
17 is to be believed, and all justifiable inferences are to be drawn in his [or her] favor.” *Id.* at  
18 255. Allegations of civil rights violations are to be liberally construed. *Thomas v.*  
19 *Youngblood*, 545 F.2d 1171, 1192 (9<sup>th</sup> Cir. 1976).

### 20 **III. Facts**

21           On May 28, 2008, at approximately 1:00 a.m., Deputies Kent and Woolf were  
22 patrolling in a marked police car in the Town of Guadalupe, Arizona. (Doc. 52; SOF ¶ 1)  
23 Deputy Woolf was the Field Training Officer (“FTO”) assigned to Deputy Kent that  
24 evening. (*Id.*) Woolf was training Kent in the proper procedures for traffic stops. (Doc.  
25 52, SOF ¶ 1) Deputy Kent was driving and had control of the radio. He reportedly  
26 observed the Sanchez vehicle in his rearview mirror and noticed that the rear license plate  
27 light was not illuminating the license plate. (*Id.*) Deputy Kent made a u-turn and  
28 starting to follow Plaintiff’s car. Kent called the license plate number into this dispatcher.

1 He was able to read the license plate because it was illuminated by his own headlights.  
2 (*Id.*)

3 Sanchez made a right turn into her driveway, and proceeded to the back of the  
4 house. (Doc. 52, SOF ¶ 2) Kent followed Sanchez' car. Both vehicles stopped in the  
5 back of the house. (*Id.*) Plaintiff, the driver, and the passenger, Manuel Valenzuela, both  
6 exited the vehicle. Deputies instructed them to get back in the car. (*Id.*) Rather than  
7 getting back in her car, Plaintiff proceeded to the back door of her house and began  
8 pounding on the door and yelling. (*Id.*)

9 Woolf followed Plaintiff and tried to lead her back to his vehicle. Plaintiff  
10 resisted. (Doc. 52, SOF ¶ 3) Manuel Valenzuela called out to Plaintiff and told her not  
11 to resist. (*Id.*) With Kent's assistance, Deputy Woolf took Plaintiff to the ground and  
12 handcuffed her. (*Id.*) Plaintiff was then placed in the back of the patrol car and taken to  
13 the Guadalupe substation where she was cited for disorderly conduct, interviewed, and  
14 released about 30 minutes later. (*Id.*)

15 Deputy Woolf testified at his deposition that, if Plaintiff had not tried to flee,  
16 he had intended to warn her about the license plate light and tell her to get it fixed. (Doc.  
17 52, SOF ¶ 4) The vehicle Plaintiff was driving that night had been driven by her brother,  
18 Andrew Sanchez, several days before and he had been stopped for a light being out. (*Id.*)  
19 Although the officer had not identified which light was out, Andrew discovered a brake  
20 light was not working and his father repaired it prior to the incident on May 28, 2008.  
21 (Doc. 52, SOF ¶ 5) Andrew did not tell Plaintiff which light had been out. (Doc. 52,  
22 SOF ¶ 4) During her deposition, Plaintiff testified that she knew there had been a  
23 problem with a light, and that she routinely checked the lights to make sure they were  
24 working. She testified that on the evening of May 28, 2008, she had checked the lights  
25 and confirmed they were working before leaving a restaurant to drive home. (Doc. 52,  
26 SOF ¶ 6) The disorderly conduct charge against Plaintiff was subsequently dismissed in  
27 the Guadalupe Justice Court. (*Id.* at ¶ 7)

28 **IV. Count One - Section 1983 Claims**

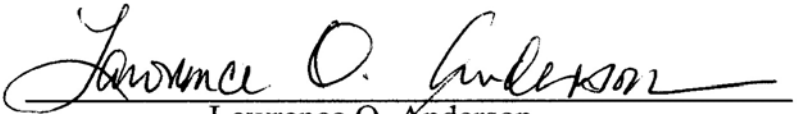
1 Count One, brought pursuant to 42 U.S.C. § 1983, alleges that Defendants  
2 Sheriffs Deputies Kent and Woolf violated Plaintiff's Fourth and Fourteenth Amendment  
3 rights by using excessive force against Plaintiff. (Doc. 1 at 6) Plaintiff asserts that  
4 Defendant Maricopa County is liable for the actions of Sheriffs Deputies Kent and Woolf  
5 under a theory of *respondeat superior*. (Doc. 1 at ¶ 16) Defendant Maricopa County  
6 argues that it is entitled to summary judgment on the § 1983 claims asserted in Count One  
7 because there is no *respondeat superior* liability for claims asserted under 42 U.S.C. §  
8 1983. Defendant Maricopa County further argues that Plaintiff has failed to establish a  
9 *prima facie* case of municipal liability for a constitutional claim for a failure to train or  
10 supervise claim. (Doc. 68 at 5-8) *See Board of County Comm'rs. v. Brown*, 520 U.S.  
11 397, 403 (1997) (stating that because municipal liability must rest on the actions of the  
12 municipality, a plaintiff must go beyond the *respondeat superior* theory of liability and  
13 demonstrate that the alleged constitutional deprivation was the product of a policy or  
14 custom of the local governmental unit.); *City of Canton, Ohio v. Harris*, 489 U.S. 378,  
15 388-91 (1989) (a plaintiff may establish municipal liability by demonstrating that the  
16 alleged constitutional violation was caused by a failure to train municipal employees  
17 adequately.).

18 In her Response, Plaintiff "agrees that summary judgment is appropriate as to  
19 Defendant Maricopa County's liability under the Civil Rights Act, 42 U.S.C. § 1983."  
20 (Doc. 77 at 1) Because there is no dispute that Maricopa County may not be held  
21 responsible for the acts or omissions of the other Defendants asserted in Count One, the  
22 Court will grant Defendant Maricopa County's Motion for Summary Judgment as to  
23 Plaintiff's § 1983 claims asserted in Count One. *See Board of County Comm'rs. v.*  
24 *Brown*, 520 U.S. 397, 403 (1997) (stating that a local governmental unit may not be held  
25 responsible for the acts of its employees under a *respondeat superior* theory of liability.");  
26 *Franklin v. Foxworth*, 31 F.3d 873 (9<sup>th</sup> Cir. 1994).

27 In accordance with the foregoing,  
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1                   **IT IS ORDERED** that the Defendant Maricopa County's Separate Motion for  
2 Summary Judgment, doc. 68, is **GRANTED** as to Plaintiff's claims asserted in Count  
3 One of the Complaint, and **DENIED**, without prejudice, in all other respects.

4                   DATED this 10<sup>th</sup> day of September, 2010.

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7                   Lawrence O. Anderson  
8                   United States Magistrate Judge  
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